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**FILED**

JUN 11 2012

SECRETARY, BOARD OF  
 OIL, GAS & MINING

*Attorneys for Red Leaf Resources, Inc.*

**BEFORE THE BOARD OF OIL, GAS AND MINING  
 DEPARTMENT OF NATURAL RESOURCES  
 STATE OF UTAH**

<p>LIVING RIVERS,          Petitioner,</p> <p>vs.</p> <p>UTAH DIVISION OF OIL, GAS &amp; MINING,          Respondent,</p> <p>RED LEAF RESOURCES, INC.,          Intervenor-Respondent.</p>	<p><b>RED LEAF RESOURCES, INC.'S</b></p> <p><b>MOTION FOR PARTIAL SUMMARY          DECISION</b></p> <p>Docket No. 2012-017</p> <p>Cause No. M/047/0103</p>
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Intervenor-Respondent Red Leaf Resources, Inc. ("RLR" or "**Red Leaf**"), permittee of the Southwest #1 Mine, LM/04710103, through its attorneys, and pursuant to Utah Administrative Code R641-105-300 and Utah Code § 63G-4-102(4)(b), hereby moves for partial summary decision on the claim raised by Petitioner in its Request for Agency Action, filed with the Board of Oil, Gas and Mining ("**Board**") on March 19, 2012, that the Division did not have authority to condition final approval of Red Leaf's Notice of Intent to Commence Large Mining Operations for the Southwest No. 1 Project ("**NOI/LMO**") upon the approval of a groundwater discharge permit by the Utah Division of Water Quality ("**DWQ**").

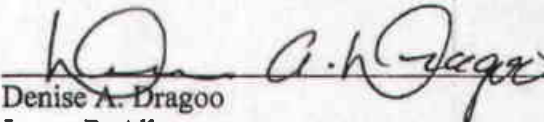
Petitioner's Request for Agency Action disputes the Utah Division of Oil Gas and Mining's (the "**Division's**" or "**DOGM's**") decision to approve Red Leaf's NOI/LMO which is governed by the Utah Mined Land Reclamation Act, Utah Code Ann. § 40-8-13 ("**Minerals Program**"). The Division acted well within its authority by conditioning the NOI/LMO upon DWQ's approval of a groundwater discharge permit. The Minerals Program specifically provides that the NOI/LMO does not relieve the applicant of the obligation to comply with all applicable statutes, rules and regulations including those of the DEQ. Utah Code 40-8-17(i); R647-1-102.3. Imposing such a condition, therefore, is within the discretion afforded to both the Division and Board to administer the Minerals Program, and will be affirmed upon judicial review so long as the decision is reasonable. *See* Utah Code § 63G-4-403(4)(h); *Sierra Club v. Air Quality Bd.*, 2009 UT 76, 226 P.3d 719 at ¶ 14.

Petitioner has set forth an objection that does not present any genuine issue of material fact requiring an evidentiary hearing, is without legal merit, and should be dismissed as a matter of law. As a result, Red Leaf moves for partial summary decision and requests that the Board dismiss the claim raised by the Petitioner that the Division erred in approving Red Leaf's permit application before the DWQ had approved a separate groundwater discharge permit.

A memorandum of points and authorities setting forth the legal basis for this Motion is provided herewith.

RESPECTFULLY SUBMITTED this 11<sup>th</sup> day of June, 2012.

SNELL & WILMER, L.L.P.

  
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Attorneys for Red Leaf Resources, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that on the 11<sup>th</sup> day of June, 2012, a true and correct copy of the foregoing RED LEAF RESOURCES, INC.'S MOTION FOR PARTIAL SUMMARY DECISION was served by e-mail and U.S. mail, postage prepaid, to the following:

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